

Serial No. 10/627,093  
Docket No. AO694

Examiner: J. Alexander  
Art Unit: 3762

REMARKS

Claims 1-3, 5-15 and 18-21 are currently pending in this application. Claims 1, 2, 5, 8, 14, 15, and 18-21 have been amended and claims 4, 16, and 17 have been canceled.

The specification was objected to for several minor informalities. In response, Applicant has amended the specification as suggested by the Examiner to correct the informalities. Reconsideration and withdrawal of the objections to the specification is respectfully requested.

Claims 8 and 19 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite. In response, Applicant has amended claims 8 and 19 as suggested by the Examiner. Reconsideration and withdrawal of the rejection of claims 8 and 10 for being indefinite under 35 U.S.C. 112, second paragraph is respectfully requested. Applicant has also amended claims 20 and 21 to more clearly define the invention.

Claims 1-14 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,405,077 to Birnbaum et al. ("Birnbaum").

The Examiner asserts that Birnbaum describes a method that includes all of the features of the claimed invention.

In response, Applicant has amended claims 1, 2, 8, and 14 to affirmatively recite that the method includes the step of not generating the out of zone alert when the sampled heartrate value is below the threshold minimum value until the threshold minimum value has been reached. As described in the specification (page 8, lines 19-25), when a user begins exercising, the method of the invention does not generate an indication that the user is out of (e.g. below) the Target Zone until the sampled heart rate is first at or above the threshold minimum value.

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Birnbaum does not describe or suggest *not generating* an indication that the measured heartrate is too low until the sampled heart rate is first at or above the threshold minimum value. Instead, Birnbaum describes an alarm that signals a user when the measured heart rate is too low and continues until the heart rate rises to the range between the lower limit and the upper limit of a heart rate limit alarm pair (col. 6, lines 50-55). However, it is respectfully submitted that this step does not anticipate or render obvious the invention as now claimed as there is no teaching or suggestion in Birnbaum to *not generate* the alarm *until* the measured heartrate *has first* met the threshold minimum value.

Therefore, it is respectfully submitted that independent claims 1, 2, 8, and 14 are now allowable over Birnbaum. Furthermore, because independent claims 1, 2, 8 and 14 are believed to be allowable, claims 3, 5-7 and 9-13, which depend directly or indirectly from these claims are also believed to be allowable over Birnbaum. Therefore, reconsideration and withdrawal of the rejection of claims 1-3 and 5-14 as being anticipated by Birnbaum is respectfully requested.

Claims 15, 16, 19, and 21 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,308,300 to Chino et al. ("Chino").

The Examiner asserts that Chino describes all of the elements of the claimed invention. Applicant respectfully disagrees.

Applicant has amended claims 15 to include the features of canceled claim 17. Because claim 17 was not rejected by the Examiner under Chino, it is believed that the amendments to claim 15 render this rejection moot. If the Examiner disagrees, the Examiner is respectfully requested to indicate a description or suggestion in the cited art to continually suppress further generation of the out of zone alert for successive sampled heartrate values that fail to satisfy the condition until a sampled heartrate value satisfies

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the condition (e.g. the user's heartrate has reentered the target zone), and then indicating this information to the user, as now claimed.

Claims 15-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,783,482 to Oglesby et al. ("Oglesby").

The Examiner acknowledges that Oglesby does not describe or suggest all of the features of the claimed invention, but asserts that Oglesby suggests a manual means (i.e. permitting a user to change the parameters of their workout program on the fly) to accomplish the same result as provided by the automatic means of Applicant's claimed invention. Applicant respectfully disagrees.

Applicant's claim 15, as amended, sets a time period for which the sampled heart rate must *fail to* satisfy the condition before the out of zone alert is suppressed. It is respectfully submitted that there is no teaching or suggestion in Oglesby of continually suppressing further generation of the out of zone alert for successive sampled heartrate values that fail to satisfy the condition until a sampled heartrate value satisfies the condition and then indicating that satisfaction of the condition to the user.

The Examiner asserts that it would be obvious to suppress further generation of the out of zone alert in the manner claimed by Applicant because broadly providing an automatic means to replace manual activity which has accomplished the same results involves only routine skill in the art and further that continuous timing mechanisms are well known in the art.

Applicant respectfully disagrees. Applicant respectfully submits that the Examiner has not demonstrated that Oglesby describes or suggests either an automatic means or a manual means for indicating to a user the continued failing of the condition and subsequent satisfaction of the condition, as now claimed by Applicant. Thus,

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Applicant respectfully submits that it cannot be shown that Oglesby describes or suggests all of the features of the invention as now claimed.

Because it is believed that claim 15 is allowable over the prior art of record for the reasons provided above, it is believed that claims 18-21 which depend directly or indirectly from claim 15 would also be allowable over the prior art of record.

Reconsideration and withdrawal of the rejection of claims 15 and 18-21 as being unpatentable over Oglesby is respectfully requested.

### CONCLUSION

Applicants respectfully submit that the foregoing is a full and complete response to the Office Action of record and believe and that claims 1-3, 5-15 and 18-21 are now in condition for allowance and an indication of allowability and an early Notice of Allowance of all of the claims is respectfully requested.

However, if any issues still exist that would prevent the issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at (203) 575-2629 prior to the issuance of the next office action.

Respectfully submitted,



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